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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

7 RICHARD E. MARKS, )

8 Defendant-Petitioner, )

Case No. C08-1445-JCC-BAT  
(CR02-423-JCC)

9 v. )

10 UNITED STATES OF AMERICA, )

**ORDER OF DISMISSAL**

11 Plaintiff-Respondent. )  
12

13 This matter comes before the Court on Petitioner's Motion to Vacate and Correct Sentence  
14 under 28 U.S.C. § 2255 ("§ 2255 Motion") (Dkt. No. 1), the Report and Recommendation of  
15 United States Magistrate Judge Brian A. Tsuchida ("R&R") (Dkt. No. 6), Petitioner's Objections  
16 to the R&R (Dkt. No. 7), Petitioner's Request for an Evidentiary Hearing (Dkt. No. 8), and  
17 Petitioner's Requests for Discovery (Dkt. Nos. 9 & 10).

18 Petitioner asserts seven objections to the R&R, each of which reiterate the same  
19 substantive arguments Petitioner made in the § 2255 Motion. In short, Petitioner again alleges that  
20 this Court lacked both personal jurisdiction and subject-matter jurisdiction over his criminal  
21 conviction because there was no affirmative evidence (1) that the "situs or location" of his crimes  
22 were within the Court's "territorial jurisdictional authority," as defined in 18 U.S.C. §7; or (2) that  
23 "Petitioner violated the Constitution or a law of the United States pursuant thereof." (§ 2255  
Motion (Dkt. No. 1); Pet.'s Objs. (Dkt. No. 7).) The Court finds that the R&R properly addressed

ORDER OF DISMISSAL

1 Petitioner's claims, which were already raised and rejected both by the Court and on direct appeal  
2 and, thus, cannot be relitigated on a § 2255 motion. (*See* R&R (Dkt. No. 6 at 6–7).) Petitioner's  
3 objections to the R&R have no basis in law or fact and merely rehash his mistaken belief that the  
4 Court lacked jurisdiction over his criminal conviction. The Court finds no merit to these  
5 objections.

6 The Court, having carefully examined the aforementioned documents, the governing law,  
7 and the balance of the record, does hereby ORDER:

- 8 1) The Court adopts the Report and Recommendation (Dkt. No. 6);
- 9 2) Petitioner's Motion to Vacate And Correct Sentence (Dkt. No. 1) is DENIED and  
10 DISMISSED with prejudice;
- 11 3) Because the § 2255 Motion is denied, Petitioner's identical Requests for Discovery  
12 (Dkt. Nos. 9 & 10) in conjunction with his § 2255 Motion are DENIED as moot;
- 13 4) Because the Court finds this matter suitable for disposition on the pleadings,  
14 Petitioner's Request for an Evidentiary Hearing (Dkt. No. 8) is DENIED.
- 15 5) The Clerk of Court is directed to send copies of this Order to the parties and to  
16 Magistrate Judge Brian A. Tsuchida.

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18 DATED this 8th day of January, 2009.

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22 JOHN C. COUGHENOUR  
23 United States District Judge